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UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re)
Matrix Development Corporation,) Case No. 08-_____ - ____ 11
an Oregon corporation, aka Legend Homes,) Chapter 11
Debtor.) DEBTOR'S MOTION FOR
DETERMINATION THAT
ADEQUATE ASSURANCE OF
PAYMENT HAS BEEN FURNISHED
TO UTILITY COMPANIES
EXPEDITED HEARING
REQUESTED

Matrix Development Corporation ("Matrix" or the "Debtor"), as debtor in possession, hereby moves this Court for entry of an order determining that the assurance of payment proposed herein to its utility service providers is adequate so as to prohibit the utilities from altering, refusing, or discontinuing utility services to the Debtor. In support of this motion, the Debtor represents:

Background

1. On June 10, 2008 (the "Petition Date"), the Debtor filed herein a voluntary petition under Chapter 11 of the Bankruptcy Code.

2. The Debtor is continuing in the management and possession of its business

1 and properties as debtor in possession under sections 1107 and 1108 of the Bankruptcy
2 Code. As of the date hereof, no committee has been formed pursuant to section 1102 of
3 the Bankruptcy Code.

4 3. Matrix is an Oregon corporation headquartered in Portland, Oregon that is
5 engaged in the business of developing and selling real estate for residential purposes.
6 Matrix, directly or through its affiliates, acquires real estate, obtains permits and
7 governmental approvals necessary for its properties to be platted as legal subdivisions or
8 condominium projects, builds the infrastructure consisting of utilities, rights-of-way,
9 sidewalks, street lighting and other improvements, constructs residential dwellings on its
10 properties, and markets and sells residential dwelling units. Effective as of June 9, 2008,
11 its wholly-owned residential construction subsidiary, Legend Homes Corporation, an
12 Oregon corporation, was merged with and into Matrix. As of the Petition Date, the
13 Debtor, directly and through its affiliates, owned approximately 362.75 acres of raw land
14 in four states (i.e., Oregon, California, Colorado and Washington) that is in various stages
15 of entitlement. In addition, the corporate group owned 770 vacant lots, 97 completed
16 residential units, and 30 homes under construction. The Debtor's internally-prepared
17 financial statements reflect that at December 31, 2007, the corporate group had
18 approximately \$258 million in total assets and \$198 million in total liabilities on a
19 consolidated basis. In 2007, Matrix and its affiliates generated approximately \$118
20 million in vertical sales revenue. It currently employs approximately 39 people.

21 Jurisdiction

22 4. This Court has jurisdiction over this matter pursuant to 28 USC §§ 157 and
23 1334 and LR 2100.1. Consideration of this motion constitutes a core proceeding within
24 the meaning of 28 USC § 157(b)(2)(A). The statutory predicates for the relief sought by
25 this motion are sections 105 and 366 of the Bankruptcy Code. Venue is proper under 28
26 USC § 1408.

Relief Requested

5. By this motion, the Debtor seeks entry of an order (i) determining that utility service providers are being furnished “adequate assurance of payment” within the meaning of section 366(c)(2) of the Bankruptcy Code by its proposal to deposit with each utility company a cash deposit equal to the total amounts billed by such utility provider to the Debtor for the last full service period immediately preceding the Petition Date, and (ii) prohibiting the Debtor’s utility service providers from altering, refusing, or discontinuing services to the Debtor, in each case, without the prior approval of this Court after further notice and opportunity for hearing being afforded the Debtor. Attached as Exhibit A is a schedule that lists, for each utility provider, the name of the utility, the service it provides, the total amounts billed by that provider to the Debtor during the last full service period immediately preceding the Petition Date, and the amount of the Debtor’s proposed cash deposit. The Debtor further requests that the Court hold an expedited hearing on this motion.

Points and Authorities

6. In connection with the operation of its business, the Debtor obtains electricity, gas, water, telephone services, and similar services from the utility companies listed in Exhibit A.

7. Under section 366(c)(2) of the Bankruptcy Code, a utility may alter, refuse, or discontinue utility service to the Debtor unless, within 30 days of the Petition Date, the utility receives from the Debtor adequate assurance of payment for postpetition utility services that is either satisfactory to the utility or determined by this Court to be adequate.

8. It is essential that utility services continue to be provided to the Debtor uninterrupted. If utility companies are permitted to terminate utility services on the 31st day after the Petition Date, substantial harm to the Debtor’s operations could occur and

its business might be irreparably harmed. To avert that harm, the Debtor would be forced to provide whatever assurance of payment that is demanded by its utility service providers.

9. The Debtor submits that its proposal to make cash deposits in the amounts indicated in Exhibit A constitutes adequate assurance of payment to the utilities. Under section 366(c)(1)(A)(i) of the Bankruptcy Code, a cash deposit is one of the methods identified as an appropriate form of “assurance of payment.” The Debtor further submits that the entry of an order prohibiting its utility service providers from altering, refusing, or discontinuing services, in each case, without the prior approval of this Court, is relief that is necessary and appropriate to carry out the provisions of the Bankruptcy Code.

10. In determining whether an assurance of payment is adequate, a court is not required to give a utility the equivalent of a guaranty of payment; it must determine only that the utility is not subject to an unreasonable risk of nonpayment for postpetition services. *See, e.g., In re Caldor, Inc.* -- NY, 199 BR 1 (SDNY 1996); *In re Santa Clara Circuits West, Inc.*, 27 BR 680, 685 (Bankr D Utah 1982); *In re George C. Frye Co.*, 7 BR 856 (Bankr D Me 1980).

Notice

12. Notice of this motion has been given to, among other parties, the United States trustee, the creditors holding the 20 largest unsecured claims, and each of the utility companies identified on Exhibit A. Further notice is impractical in the circumstances. The Debtor submits that the foregoing constitutes good and sufficient notice and that no other or further notice need be given in the circumstances.

WHEREFORE, the Debtor requests entry of an order granting the relief requested

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1 herein, without prejudice to the right of any utility to seek modification of the assurance of
2 payment proposed herein, and such other and further relief as is appropriate.

3 Dated: June 10, 2008.

4 Greene & Markley, P.C.

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6 By: /s/ David A. Foraker
David A. Foraker, OSB # 812280
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Exhibit A
SCHEDULE OF UTILITIES AND
PROPOSED DEPOSITS

| | | Total Billings | |
|----------------------------|--------------------------|----------------------------|---------------------|
| | Description of | During the Last | Proposed |
| Utility Name | Services | Full Service Period | Cash Deposit |
| PGE | electric | 6,876 | 6,876 |
| PGE Western | electric | 1,470 | 1,470 |
| PGE Earth Advantage | earth advantage | 3,530 | 3,530 |
| PGE Unity | utility trenches | 2,500 | 2,500 |
| Pacific Power | electric - Corvallis | 1,600 | 1,600 |
| NW Natural | Gas | 11,508 | 11,508 |
| Sunrise Water Authority | water/Sewer | 128 | 128 |
| City of Tualatin | water | 272 | 272 |
| City of Wilsonville | water,sewer | 654 | 654 |
| City of Hillsboro | water,sewer | 1,458 | 1,458 |
| City of Albany | water,sewer | 836 | 836 |
| City of West Linn | water,sewer | 166 | 166 |
| City of Tigard | water,sewer | 928 | 928 |
| City of Corvallis | water/Sewer | 1,507 | 1,507 |
| Verizon Northwest | phone - sales | 600 | 600 |
| Comcast | phone - PDX & Corvallis | 1,100 | 1,100 |
| Qwest | phone - Corvallis | 500 | 500 |
| Integra | phone - Portland Office | 1,800 | 1,800 |
| Integra (Corvallis) | phone - Corvallis Office | 500 | 500 |
| Allied Waste Services | garbage - Corvallis | 50 | 50 |
| Cornelius Disposal | garbage - PDX | 110 | 110 |
| Water Environment Services | water/sewer | 560 | 560 |
| Totals | | 38,654 | 38,654 |